

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

MATTHEW BROWNFIELD

PLAINTIFF

V.

CIVIL ACTION NO. 3:22CV74-SA-RP

**JOHN LUTZOW,
BUDGET TRUCK RENTAL, LLC, and
MOUNTAIN LAUREL ASSURANCE COMPANY**

DEFENDANTS

DEFENDANT BUDGET TRUCK RENTAL, LLC'S NOTICE OF REMOVAL

TO: Monet Bell Autry
Marshall County Circuit Clerk
Post Office Box 459
Holly Springs, Mississippi 38635

Derek Fairchilds
Adam Johnson
NAHON SAHAROVICH & TROTZ, PLC
488 South Mendenhall
Memphis, Tennessee 38117

Matthew Browfield
c/o Derek Fairchilds
Adam Johnson
NAHON SAHAROVICH & TROTZ, PLC
488 South Mendenhall
Memphis, Tennessee 38117

In accordance with 28 U.S.C. §§1332, 1441, and 1446, you are notified that Defendant Budget Truck Rental, LLC (hereinafter “this Defendant”) has removed the action entitled *Matthew Brownfield v. John Lutzow, Budget Truck Rental, LLC, and Mountain Laurel Assurance Company*, bearing Civil Action No. CV2022-078, from the Circuit Court of Marshall County, Mississippi, to the United States District Court for the Northern District of Mississippi, Oxford Division, and in support thereof, states as follows:

BACKGROUND

1. Plaintiff Matthew Brownfield commenced this action on March 17, 2022 by filing his *Complaint* in the Circuit Court of Marshall County, Mississippi, assigned Civil Action No. CV2022-078, and styled *Matthew Brownfield v. John Lutzow, Budget Truck Rental, LLC, and Mountain Laurel Assurance Company*. A copy of the state court complaint is attached hereto as Exhibit “A.”

2. In his *Complaint*, Plaintiff alleges that this Defendant was negligent in securing a rental trailer to a rental vehicle rented to Defendant Lutzow, allegedly resulting in damages and injuries to Plaintiff. *See Exhibit A.* Plaintiff further alleges that the Defendant Lutzow was negligent in the operation and securing of the rental truck and trailer, and that Defendant Mountain Laurel Assurance Company is Plaintiff’s uninsured/underinsured motorist carrier. *Id.* Plaintiff brought suit against all Defendants seeking compensatory damages arising out of their alleged negligence.

3. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served upon this Defendant is attached hereto and incorporated herein. *See Exhibit A.*

PROCEDURAL REQUIREMENTS ARE SATISFIED

4. This *Notice of Removal* is timely in accordance with 28 U.S.C. §1446(b). This Defendant was served no earlier than April 5, 2022.

5. The United States District Court for the Northern District of Mississippi, Oxford Division, is the federal judicial district embracing the Circuit Court of Marshall County, Mississippi, making venue proper under 28 U.S.C. §1441(a).

6. A copy of this *Notice of Removal* will be filed with the Circuit Court of Marshall County, Mississippi, and a copy will be provided to all parties pursuant to 28 U.S.C. §1446(d).

7. This Defendant has filed a civil cover sheet contemporaneously with this *Notice of Removal*.

BASIS OF REMOVAL

8. This Court has original jurisdiction over this case pursuant to 28 U.S.C. §1332, in that this is a civil action between citizens of different states where the matter in controversy exceeds \$75,000.00.

COMPLETE DIVERSITY

9. Removal of this action is proper because complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. §1332.

10. Plaintiff alleged that he is a citizen of Shelby County, Tennessee. Exhibit A at p. 1, ¶1.

11. This Defendant is a Delaware corporation with its principal place of business located in Parsippany, New Jersey. *Id.* at ¶3¹. This Defendant is a single member limited liability company, with Budget Rent A Car System, Inc. as its sole member. Budget Rent A Car System, Inc. is a Delaware corporation with its principal place of business located in Parsippany, New Jersey.

12. Defendant Lutzow is a citizen of Douglas County, Nebraska. *Id.* at ¶2.

13. Defendant Mountain Laurel Assurance Company is an Ohio corporation with its principal place of business located in Ohio.

14. No defendant in this suit is a citizen of the State of Mississippi, the state which this action was brought. Further, no defendant in this suit is a citizen of the State of Tennessee, where Plaintiff resides. This action may be removed pursuant to 28 U.S.C. §1441.

AMOUNT IN CONTROVERSY

15. Because Plaintiff's *Complaint* specifically requests "restitution and compensation for damages ... not to exceed the sum of TWO MILLION DOLLARS AND 00/100 (\$2,000,000.00)," it is facially apparent from the allegations of the *Complaint* that the amount in controversy in said

¹ Plaintiff incorrectly lists this Defendant's principal place of business as Parsippany, New York. It is in fact Parsippany, New Jersey.

civil action exceeds the sum and value of \$75,000.00 exclusive of interests and costs. The *Complaint* alleges the following damages: temporary and permanent disability, past and future pain and suffering, medical and related expenses, loss of quality and enjoyment of life, mental anguish, loss of earnings and/or loss of earning capacity, and property damage. Exhibit A at pp. 7-8, ¶¶26-33.

16. It is facially apparent from the claims made in Plaintiff's *Complaint* that the amount in controversy meets the jurisdictional threshold of damages in excess of \$75,000.00, as required by 28 U.S.C. §1332.

WHEREFORE, PREMISES CONSIDERED, Defendant Budget Truck Rental, LLC prays that this *Notice of Removal* and exhibit thereto be received and filed, and that said action in the Circuit Court of Marshall County, Mississippi, proceed no further herein. Defendant Budget Truck Rental, LLC further prays for such other, further, special, and general relief as it is entitled to receive.

RESPECTFULLY SUBMITTED, this the 4th day of May, 2022.

**BUDGET TRUCK RENTALL, LLC
DEFENDANT**

BY: /s/ Robert F. Stacy, Jr.
OF COUNSEL

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CERTIFICATE OF SERVICE

I, the undersigned counsel for Defendant Budget Truck Rental, LLC, hereby certify that I have, this day, filed the original of the above and foregoing *Defendant Budget Truck Rental, LLC's Notice of Removal*, and exhibit thereto, in the United States District Court for the Northern District of Mississippi, Oxford Division, and that upon the filing of the original notice and exhibit thereto, I have served a true and correct copy of said notice and exhibit on the following:

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Marshall County Circuit Clerk
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all to effectuate the removal of a civil action entitled *Matthew Brownfield v. John Lutzow, Budget Truck Rental, LLC, and Mountain Laurel Assurance Company*, bearing Civil Action No. CV2022-078, from the Circuit Court of Marshall County, Mississippi, to the United States District Court for the Northern District of Mississippi, Oxford Division, pursuant to the statutes and rules in such cases made and provided.

THIS, this 4th day of May, 2022.

/s/ Robert F. Stacy, Jr.
OF COUNSEL